

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Michael V. Bott, and  
Tony Bott

Respondents

P. & S. Docket No. D-07-0173

Decision Without Hearing  
Based on Consent

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) ("Act"), by a Complaint filed August 16, 2007, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents willfully violated the Act and regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Michael V. Bott is an individual whose business address is: 75 North, 200 West, Rupert, Idaho 83350.

2. Michael V. Bott at all times material to this complaint was:
  - a. Engaged in the business of a dealer, buying and selling livestock in commerce for his own account;
  - b. Engaged in the business of a market agency, buying livestock in commerce on a commission basis; and
  - c. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, a market agency buying on commission, and a market agency providing clearing services.
3. Tony Bott is an individual whose business address is: 75 North, 200 West, Rupert, Idaho 83350.
4. Tony Bott at all times material to this complaint was:
  - a. Engaged in the business of a dealer, buying and selling livestock in commerce for his own account;
  - b. Engaged in the business of a market agency, buying livestock in commerce on a commission basis; and
  - c. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
5. Complainant's Western Regional Office sent a letter, dated February 5, 2001, to Michael V. Bott, advising him that an investigation had indicated that Michael V. Bott had failed to pay promptly for livestock purchases. The letter advised Michael V. Bott that failures to pay promptly violate section 409 of the Act (7 U.S.C. § 228b), and section 201.43 of the Regulations.
6. The Complainant's Western Regional Office sent a letter, dated April 4, 2005, to Tony Bott advising him that an investigation had indicated that he had failed to pay promptly for livestock purchases, and that he was failing to

maintain adequate records. The letter advised Tony Bott that failures to pay promptly violate section 409 of the Packers and Stockyards Act (7 U.S.C. § 228b) and failures to maintain adequate records violate section 401 of the Act (7 U.S.C. § 221).

7. Michael V. Bott and Tony Bott ("Respondents"), under the name "MB Livestock", in connection with their operations subject to the Act, and in the transactions set forth below, failed to pay, when due, the full amount of the purchase price for livestock within the time period required by section 409 of the Act and the Regulations promulgated thereunder at 9 C.F.R. § 201.43.

Purchase Date	Seller	Livestock Amount (\$)	Date Payment Due	Date Of Payment	Days Late
06/03/2005	Treasure Valley Livestock Auction , Caldwell, Idaho ("Treasure Valley")	\$79,971.74	06/06/2005	06/08/2005	2
06/10/2005	Treasure Valley	\$39,262.31	06/13/2005	06/15/2005	2
06/17/2005	Treasure Valley	\$86,380.56	06/20/2005	06/23/2005	3
07/01/2005	Treasure Valley	\$43,006.31	07/05/2005	07/06/2005	1
07/08/2005	Treasure Valley	\$70,476.65	07/11/2005	07/13/2005	2*
07/09/2005	Treasure Valley	\$944.35	07/11/2005	07/13/2005	2*
07/15/2005	Treasure Valley	\$97,542.72	07/18/2005	07/21/2005	3
07/22/2005	Treasure Valley	\$51,614.79	07/25/2005	07/28/2005	3
08/05/2005	Treasure Valley	\$65,504.92	08/08/2005	08/09/2005	1
08/12/2005	Treasure Valley	\$88,317.17	08/15/2005	08/17/2005	2 <sup>o</sup>
08/13/2005	Treasure Valley	\$3,251.60	08/15/2005	08/17/2005	2 <sup>o</sup>
08/19/2005	Treasure Valley	\$57,583.03	08/22/2005	08/23/2005	1
06/07/2005	Emmett Valley Livestock Auction, LLC., Emmett, Idaho ("Emmett Valley")	\$78,637.92	06/08/2005	06/12/2005	4

Purchase Date	Seller	Livestock Amount (\$)	Date Payment Due	Date Of Payment	Days Late
06/14/2005	Emmett Valley	\$31,409.22	06/15/2005	06/19/2005	4
06/21/2005	Emmett Valley	\$52,656.59	06/22/2005	07/06/2005	14
06/28/2005	Emmett Valley	\$60,163.74	06/29/2005	07/08/2005	9
07/05/2005	Emmett Valley	\$40,737.87	07/06/2005	07/20/2005	14
07/12/2005	Emmett Valley	\$53,853.19	7/13/2005	07/20/2005	7
07/19/2005	Emmett Valley	\$30,206.18	07/20/2007	08/02/2005	13 <sup>†</sup>
07/26/2005	Emmett Valley	\$27,698.25	07/27/2005	08/02/2005	6 <sup>†</sup>
08/02/2005	Emmett Valley	\$32,642.60	08/03/2005	08/10/2005	7
08/09/2005	Emmett Valley	\$22,580.75	08/10/2005	08/22/2005	12 <sup>‡</sup>
08/16/2005	Emmett Valley	\$39,963.06	08/17/2005	08/22/2005	5 <sup>‡</sup>
* Transactions paid with a single check ◊ Transactions paid with a single check † Transactions paid with a single check ‡ Transactions paid with a single check					

8. Respondents failed to keep records, as required by section 401 of the Act (7 U.S.C. § 221), that fully and correctly disclosed all transactions involved in their business, in that Respondents failed to keep trucking or freight invoices and load make-up sheets.

#### Conclusions

Respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, the decision will be entered.

#### Order

Respondents, their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from failing to pay, when due, the full purchase price of livestock.

Respondents shall keep records that fully and correctly disclose all transactions involved in their business, as required by section 401 of the Act (7 U.S.C. § 221), including trucking or freight invoices and load make-up sheets.


In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are assessed, jointly and severally, a civil penalty in the amount of two thousand dollars (\$2,000).

The provisions of this order shall become final and effective on issuance.

Copies of this decision shall be served upon the parties.


Done at Washington, D.C.


this 30 day of October, 2007




Administrative Law Judge

Jill S. Clifton

  
Tony Bott  
Respondent

  
Michael V. Bott  
Respondent

  
Jonathan D. Gordy  
Attorney for Complainant